

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Binghamton Celltelco Cellular One)	
Station KNKA486, Market 122(A))	File No. 0000015124
Phase II Application to Add the Montrose)	
Cell Site, Binghamton, New York MSA)	

ORDER

Adopted: April 11, 2000

Released: April 12, 2000

By the Chief, Policy and Rules Branch, Commercial Wireless Division, Wireless Telecommunications Bureau:

1. On June 6, 1999, Binghamton Celltelco Cellular One (Binghamton) filed the above-captioned application. Pennsylvania No. 4 Sector 2 Limited Partnership (PA4) filed a petition to deny the application on July 15, 1999, alleging an improper extension into its service area.

2. On April 16, 1999, the Commission issued a public notice¹ temporarily waiving the Commission's "greenmail" rules, which place limitations on settlements that parties can reach in contested cases.² The *Greenmail Waiver Notice* permitted parties to resolve certain contested proceedings by seeking within the waiver period dismissal or withdrawal of, *inter alia*, pending applications and petitions without having to certify that they had complied with the otherwise applicable limitations on the consideration promised, paid or received for such dismissal or withdrawal.³

3. On July 26, 1999, Binghamton notified the Commission that it was withdrawing its application.⁴ Binghamton filed its request within the waiver period provided by the *Greenmail Waiver Notice*,⁵ and permitting the withdrawal is in the public interest. Accordingly, we will approve Binghamton's request to withdraw the above-captioned application. We therefore will dismiss PA4's

¹ Public Notice, DA 99-745 (Apr. 16, 1999) (*Greenmail Waiver Notice*).

² See 47 C.F.R. §§ 1.935(a), (b). The waiver initially was in effect for a 90-day period that expired on August 16, 1999, but the Commission subsequently extended it until October 30, 1999. See Public Notice, DA 99-1734 (Aug. 30, 1999).

³ *Greenmail Waiver Notice* at 1.

⁴ Letter from David C. Jatlow, Counsel for Binghamton (Jatlow), to Steven Weingarten, Chief, Commercial Wireless Division, Wireless Telecommunications Bureau (CWD Chief), July 26, 1999.

⁵ Binghamton later clarified that its withdrawal was submitted pursuant to the *Greenmail Waiver Notice*. See Letter from Jatlow to CWD Chief, March 23, 2000.

petition to deny as moot.⁶

4. ACCORDINGLY, IT IS ORDERED that, pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and sections 0.331 and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.331, 1.3, the request to withdraw the above-captioned application filed by Binghamton Celltelco Cellular One on July 26, 1999 IS GRANTED.

5. IT IS FURTHER ORDERED that, pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and sections 0.331 and 1.939(g) of the Commission's rules, 47 C.F.R. §§ 0.331, 1.939(g), the petition to deny filed by PA4 on July 15, 1999 IS DISMISSED as MOOT.

FEDERAL COMMUNICATIONS COMMISSION

Paul D'Ari
Chief, Policy and Rules Branch
Commercial Wireless Division
Wireless Telecommunications Bureau

⁶ We note that PA4 recently filed a letter seeking to withdraw its petition, in view of Binghamton's earlier withdrawal of its application. See Letter from William J. Sill, Counsel for PA4, to CWD Chief, March 10, 2000.